

SCHOONER ARDENT.

LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS,
TRANSMITTING A COPY OF THE CONCLUSIONS OF LAW AND
FACT IN THE FRENCH SPOILIATION CASES RELATING TO THE
SCHOONER ARDENT, GEORGE LEE, MASTER, AGAINST THE
UNITED STATES.

JANUARY 23, 1903.—Referred to the Committee on Claims and ordered to be printed.

COURT OF CLAIMS,
Washington, D. C., January 22, 1903.

SIR: Pursuant to the order of the Court of Claims, I transmit herewith the conclusions of fact and of law filed under the act of January 20, 1885, in the French spoliation claims set out in the annexed findings by the court relating to the vessel the schooner *Ardent*; master, George Lee.

I am, very respectfully, yours, etc.,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Hon. DAVID B. HENDERSON,
Speaker of the House of Representatives.

[Court of Claims. French Spoiliations. (Act of January 20, 1885—23 Stat. L., 283.) Schooner *Ardent*, master, George Lee.]

No. of case.

Claimant.

3705. William D. Lee, administrator de bonis non of estate of William Duncan, deceased, v. The United States.

CONCLUSIONS OF FACT.

This case was tried before the Court of Claims on the 27th day of November, 1889.

The claimants were represented by William E. Earle, esq., and the United States, defendants, by the Attorney-General, through his assistant in the Department of Justice, Benjamin Wilson, esq., with whom was Assistant Attorney-General John B. Cotton. The case was remanded and again tried on the 3d day of December, 1902. The claimants were represented by Theodore J. Pickett, esq., and the United States, defendants, by the Attorney-General, through his assistant in the Department of Justice, John W. Trainer, with whom was Assistant Attorney-General Louis A. Pradt.

The court, upon the evidence, and after hearing the arguments and considering same with the briefs of counsel on each side, determine the facts to be as follows:

1. The schooner *Ardent* sailed from Baltimore, Md., on the 23d of June, 1797, bound to Gonaives. On or about the 19th of July following she was seized on the high seas by the French privateer *L'Heroine*, Captain Langlois, and carried to Port

de Paix. On the 29th of July, 1797, both vessel and cargo were condemned by the French prize tribunal sitting at Cape Francais and become a total loss to the owners. The grounds of condemnation set forth in the decree were that the vessel had cleared for Gonaives, but was in fact bound to the Mole and Port au Prince, and that the captain did not produce with his other papers either bills of lading, invoices, or the certificate described in the twenty-fifth article of the treaty of 1778 between France and the United States.

II. The *Ardent* was a duly registered vessel of the United States, of 924½ tons burthen, built in Massachusetts in the year 1789 and owned by William Duncan, a citizen of the United States.

III. The cargo of the *Ardent* consisted of fish, flour, shoocks, hoops, plank, hair powder, dry goods, hams, and oil, the property of William Duncan and Peter Garts. William W. Thomas was the owner of an adventure on board the said vessel.

No claim has been filed herein on behalf of Peter Garts or William W. Thomas.

IV. The losses by reason of the seizure and condemnation of the *Ardent* and cargo were as follows:

The value of the vessel was	\$2,300.00
The freight earnings of the voyage were.....	1,533.00
The value of the cargo was.....	3,141.08
The value of the adventure of William W. Thomas was.....	123.62

Amounting, in all, to..... 7,097.70

V. The loss sustained by William Duncan was as follows:

The value of the vessel.....	\$2,300.00
Freight earnings for the voyage	1,533.00
One-half of the cargo.....	1,570.54

Amounting to..... 5,403.54

VI. February 14, 1800, said William Duncan being indebted unto several persons in divers sums of money, which by reason of divers loss and misfortune he was unable to make full payment and satisfaction, but by and with the consent of his creditors transferred and assigned over unto James Dall, Luke Tiernan, Humphrey Peirce, and Archibald Stewart, their heirs, executors, administrators, and assigns forever, all and singular his real estate and all and singular his leasehold property, and also all and singular the debts, sums of money, goods, wares, merchandise, and property of every description which he, the said William Duncan, is entitled to or interested, in trust only for all such of the creditors of the said William Duncan, who shall sign and seal these presents within thirty days now next ensuing the day and date of these presents toward payment and satisfaction of the several debts as far as the same will amount unto in the manner hereinafter mentioned.

The said deed of assignments mentions various property and interests owned by the said Duncan and provides for the applications of the proceeds thereof to the various creditors.

The said deed of assignment contains no specific reference to any claim of the said Duncan against the United States for French spoliations.

The said deed of assignment is signed by Heathcoat & Dall and 50 other firms and individuals as creditors of the said Duncan.

It does not appear in what amount the said Duncan was indebted to said creditors, nor whether the property assigned by him was sufficient to pay said indebtedness, nor what part of said indebtedness was ever paid, or what sum, if any, is still unpaid.

Luke Tiernan Brien appears as administrator d. b. n. c. t. a. of the estate of Luke Tiernan, creditor and surviving trustee of said William Duncan. It does not appear that he represents the same Luke Tiernan who was one of the trustees of said Duncan or that he represents the next of kin of the said Tiernan and his cotrustees or the next of kin of the various creditors, or any of them.

VII. The claimants, William D., Thomas D., Henry A., and Joseph A. Lee and Virginia Waters, administrators, etc., of the estate of William Duncan, have produced letters of administration on the said estate, and they have otherwise proved to the satisfaction of the court that the person whose estate they represent is the same person who suffered loss through the seizure and condemnation of the *Ardent*, and they have also proved to the satisfaction of the court that they represent the next of kin of their decedent.

Said claims were not embraced in the convention between the United States and the Republic of France, concluded on the 30th of April, 1803, and were not claims growing out of the acts of France, allowed and paid in whole or in part, under the provisions of the treaty between the United States and Spain concluded on the 22d of

February, 1819, and were not allowed in whole or in part under the provisions of the treaty between the United States and France of the 4th of July, 1831.

The claimants in their representative capacity are the owners of said claims, which have never been assigned except as aforesaid, nor does it appear that any of said claims are owned by an insurance company.

CONCLUSIONS OF LAW.

The court decides, as conclusions of law, that said seizure and condemnation were illegal, and the owners and insurers had valid claim of indemnity therefor upon the French Government prior to the ratification of the convention between the United States and the French Republic concluded on the 30th day of September, 1800; that said claims were relinquished to France by the Government of the United States by said treaty in part consideration of the relinquishment of certain national claims of France against the United States, and that the claimants are entitled to the following sums from the United States:

William D., Thomas D., Henry A., and Joseph A. Lee and Virginia Waters, administrators of William Duncan, five thousand four hundred and three dollars and fifty-four cents (\$5,403.54).

Luke Tiernan Brian, administrator de bonis non cum testamento annexo of the estate of Luke Tiernan, creditor and surviving trustee of said William Duncan, has proved no valid claim.

BY THE COURT.

Filed January 5, 1903.

A true copy.

Test this 22d day of January, 1903.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

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